



*The Magnanimous,
Prince. James
Borne October*

*and High-borne
Duke of Yorke. etc.
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The PARIS Gazette.

Paris, Anno Dom. 1420.

THe Emperour *Maximilian* having court-
ed *Anne* sole Daughter and Heir to the
Duke of *Britain*, prevailed at last with
the young Lady, and with the principal
Persons about her, as the Marriage was consum-
mated by *Proxy*, with a Ceremony at that time
in these parts new. For she was not only pub-
licly contracted, but stated as a Bride, and so-
lemnly Bedded; and after she was laid, there
came in *Maximilian's* Embassidour with Letters
of Procuracion, and in the presence of sundry
Noble Personages, Men and Women, put his
Legg (stript naked to the Knee) between the
Espousal Sheets; to the end, that that Ceremony
might be thought to amount to a Consummation
and actual Knowledge. This done, *Maximilian*
(whose property it was to leave things then,
when they were almost come to perfection, and
to end them by imagination; like ill Archers, that
draw not their Arrows up to the Head; and
who might as easily have bedded the Lady him-
self, as to have made a Play and Disguise of it,)
thinking all now assured, neglecting for a time
his further proceeding, and intended his Warrs.
Mean while, the *French King* (consulting with
his Divines, and finding that this pretended Con-
summation was rather an Invention of Court,
than any ways valid by the Laws of the Church,)
went more really to work, and by secret Instru-
ments, and cunning Agents, as well Matrons
about the young Lady, as Counsellours, first
sought to remove the Point of Religion and Ho-
nour out of the mind of the Lady her self, where-
in there was a double labour. *Maximilian* was
not only Contracted unto the Lady, but *Maxi-
milian's* Daughter was likewise Contracted to
King Charles; So as the Marriage halted upon
both feet, and was not clear on the other side.
But for the Contract with *King Charles*, the ex-
ception lay plain and fair; for that *Maximilian's*
Daughter was under years of Consent, and so
not bound by Law, but a power of Disagreement
left to either part. But for the Contract made
by *Maximilian* with the Lady her self, they
were harder driven; having nothing to alledge,
but that it was done without the consent of her
Sovereign Lord *King Charles*, whose Ward and
Client she was, and he to her in place of a Father;
and therefore it was void, and of no force, for
want of such consent. Which defect (they
said) though it would not evacuate a Marriage,
after *Cohabitation* and *Actual Consummation*;
yet it was enough to make void a Contract.
For as for the pretended *Consummation*, they
made sport with it, and said, That it was an
argument that *Maximilian* was a *Widower*, and
a cold *Wooer*, that could content himself to be a
Bridegroom by Deputy, and would not make a lit-
tle Journey to put all out of question. So that the
young Lady, wrought upon by these Reasons,
finely instilled by such as the *French King* (who
spared for no Rewards or Promises) had made

on his side, and allured likewise by the present
Glory and Greatness of *King Charles*, (being
also a young King, and a Bachelor) and loth to
make her Countrey the Seat of a long and mise-
rable War, secretly yielded to accept of *King*
Charles. Those of the Court of *Britain* her
Subjects and Familiars, insinuated into the La-
dies mind the invalidity of a Marriage by *Proxy*,
that there was more of Solemnity and State in
those contracts, then Obligation. That She
ought not to make any Scruple of Conscience
about the point, where the good of her self and
Subjects was so much concerned. However in
such accidents, the *Pope* who hath power over
all Laws Ecclesiastical, would easily be brought
to dispense with such Covenants not personally
performed, to prevent the miseries that grow
by War. *L. Bacon Hist of Henry vii. pag. 80.*
81. de Serres life of Charles viii. The supple-
ment of Phil. Comines chap. 6. A. D. 1489.

The Case.

Disso 1506. Lewis the twelfth K. of *France*, had
one only Daughter, whose name was *Claude*, the
which by virtue of the *Salique Law* was exclu-
ded from inheriting the Crown: the Presump-
tive Heir being *Francis* Duke of *Valois*, Earl of
Angoulême. This *Claude* being not yet come
to Age, was betrothed to *Charles* (the eldest
Son of Archduke *Philip*) and the same Marri-
age confirmed by more then one Legacy, they
entitling themselves *Kings of Naples*, and
Dukes of Apulia and Calabria. After all this
it was debated in the *Kings Council*, and in all
the *Parliaments* of *France*, whether the said
Espousals should be annulled? And whether it
were not most convenient for the *Realm*, that
Francis Duke of *Valois* should marry Her, He
being the undoubted Heir of the Kingdom.

*De Serres in
the Life of
Lewis XII.*

Arguments upon each side.

King Lewis thought the Case to contain mat-
ter of much difficulty. In the first place he
thought it repugnant to the Majesty and Gran-
deur of *France*, that he should violate his *Royal*
Word and Faith plighted with the Eldest Son of
the K. of *Castile*: And therefore He said that He
could not upon any terms condescend and yield
unto the Humble Request and Petition of his Peers
and *Parliaments*, who did, (and that rationally)
conclude that it would exceedingly contribute to
the Peace & Welfare of *France*, if *Francis* of *Valois*
did marry with *Claude*. The Nobles and re-
spective *Parliaments* proceeded upon this
ground. That *Claude* after the decease of *King*
Lewis would as *Inherrix* possesse sundry Terr-
itories and Lordships in *Italy*, *France*, and the
Netherlands, which if they should be alienated
from the Realm of *France* by her Marriage into
Castile, it would prove an unspeakable loss to
the Crown of *France*. For what was this else
but to deliver up the Keys of the said *Realm* unto
the *Castilians*, the Hereditary Enemies of *France*,
for Preservation or the Recovery whereof there
must



must needs arise most grievous Wars betwixt the immediate Successor of King Lewis, and the Crown of Castile? It did not seem credible unto them, nor did they think the Councils of France ought to proceed on such uncertain Measures, that the Alliance aforesaid would produce any great and durable Amity betwixt the two Nations. There being nothing so Sacred or Solemn in the Leagues and Confederacies of Princes which doth not yield to their Ambition. Enlargement of Empire is the Supreme consideration in their Councils; and from those desires even the most firm bonds of Friendship are daily violated. Wherefore least the Territories of such Importance should come into the possession of the Castilians, and their already potent Neighbour should receive so great an accessional of strength, they thought the *Espousals* did not only deserve to be annulled, but ought in point of Right and Equity to be invalidated. For the which they alledged two most powerfull reasons. First, they resolved it, that His Majesty would proceed most exactly according to the dictates of Honour and Conscience; if, out of a tender regard unto the welfare and safety of his people, He did inferre from those Councils which he had either presumpuously assented unto, or entertained upon the Exigency of a special juncture of Affairs: That He was obliged to comply with the humble request of his natural Subjects, aiming at the generall, rather than by too strict a respect unto His Word, given unto a Forreigner, to endanger the whole Realm. That the most obligatory and powerfull toys upon Princes, are those whereby they stand engaged to their people, whereunto for Him to adhere, 'twas true Honour and Conscience. Secondly they argued against the Marriage, that in such Contracts above all others there ought to intervene a voluntary consent, which She at those Years was incapable to give; and therefore the Contract was null by the Civil and Canon Law.

The Resolution taken.

King Lewis being over-ruled by these reasons, and by a particular concernment for the welfare of His Realm, did annull the said Contract; and to answer the Peace and Tranquility of his Dominions did give Her in Marriage unto Francis of Valois, who did afterwards succeed him in the Realm of France.

The Event.

It was found by Experience that the designs of the Castilians which they had formed to the prejudice of France, and which were founded upon the hopes of consummating the said Marriage, were all at once defeated therewith; And Francis together with Claude did quietly possess himself of those Hereditaments.

The Authors observation thereon.

In the Marriage of the Royal Family unto Foreign Potentates, two things ought especially to be considered. First, How much passeth away with the Daughter affianced. Secondly, what benefits may accrue, or be justly expected from the Forreigner with whom such Alliance and Marriage is to be Contracted. Zuerius Boxthorpius disquisit. Politic. cas. 2.

Metz. The Princess of Heidelberg being formerly Affianced unto the D. of Orleans, Brother to the present King of France, no sooner arrived at this place; but His most Christian Majesty sent express word unto Her Highness, that albeit according to the Articles of Marriage, She were to continue in the Protestant Religion until by the persuasions and instructions of Her Aunt the Princess Loyce; Yet such was the pleasure of His most Christian Majesty, that She should either omit those formalities and delays, and immediately turn Roman Catholick, or else return to Heidelberg without any consummation of Marriage.

Oxford 1600. *Albaricus Gentilis* in a Discourse of His to Chancellour Egerton about Marriages by Proxy, denies them to be of any validity. For howsoever the Canon Law does admit of such, as good; Yet the Civil Lawyers are generally of another opinion. Because that in Matrimony there ought to intervene the special and present consent of both Parties; but in such cases the Proxy only gives his immediate consent. And whereas it is said that any Action may be executed by Proxy which a man may execute by himself; the Rule is not true in cases of Matrimony, but in Patrimonial Causes; which alone admit of Procurations; And *Jason* the Civilian writes foolishly, where he admits of Marriage by Proxy. *Esti dicitur actum quemlibet posse per procuratorem posse explicari in signid aliter vetitum sit. Tamen & illa est regula, ut quæ non sint Patrimonij, ea per procuratorem non fiant; Atque quod excipiat ab hac regula Matrimonium Jason, aut quisquis alius inipsum est.* *Alberic. Gentilis de nuptijs l. 2. c. 14.*

Amsterdam 1666. Upon the question concerning the validity of Marriage by Proxy, it is resolved that *Espousals* may be made by Proxy, but not Marriage. For, that a thing be done by Proxy, it is requisite that the Action arising from the Contract be such as may be fixed in the Proxy, and by him may reciprocally revert unto him by whom he is delegated. *l. 4. §. 2. D. de adquirend. vel omittend. poss. l. 8. §. final. D. mandat.* But though in *Espousals* the Action be such as may be surrendered up to the principal and delegating parts; yet such is the bond of Marriage (which is the consummation of *Espousals*, and puts an end to that Ceremony) that it terminates in the person of a Proxy, nor is it a thing imaginable in Nature, that ever it should fall under the possibility of any Surrender. *Henricus Bronwer l. C. de jure connubior. l. 1. c. 20 §. 11.*

Anjou 1584. If both parties be present and give their mutual consents in Marriage, without Co-habitation; Though the Law terms this a good Marriage, yet I do determine that the man in this case doth not acquire the Rights of an husband. For accruing to the resolution of the Divines and Canonists, whose Authority is the greatest in these points. Whensoever we speak of the Rights of Marriage, there is not any notice or regard taken of those Marriages which are not consummated by Co-habitation. *Joan. Bodin, de republ. l. 1. c. 3.*

written by Hen. Stubb m. A. in the Duke of York
was about to marry the Princess of Modena ~